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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,213	12/13/2005	Dominique Schwab	19978.0016	3737
29052 7590 08/20/2008 SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309				
EXAMINER				
NGUYEN, THUKHANH T				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
08/20/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/522,213

**Applicant(s)**

SCHWAB ET AL.

**Examiner**

THUKHANH NGUYEN

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 15-24 is/are pending in the application.  
4a) Of the above claim(s) 15-22 and 24 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-12 and 23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date 01/14/05  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-12 and 23 in the reply filed on July 01, 2008 is acknowledged.

***Specification***

2. The abstract of the disclosure is objected to because it discloses extra information ([t]ranslation of the title ....) Deletion of this section is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-12 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickson et al (4,137,031).

Dickson et al teach an apparatus for making plastic article, comprising a mold, having a base portion (80), a pair of undercut forming molds (24A), a counter-mold (50) cooperating with the undercut forming molds (24A) forming a cavity, a piston (52) penetrating the cavity, holding means, or support rings (24D-E) and transfer means or rotatable turret (36) for transferring the plastic article through different molding stations, wherein the base portion (80) and the counter-mold (50) are spaced apart when the undercut forming molds are opened and the article is transported to another station (col. 6, lines 7-15).

In regard to claims 2-3, wherein the undercut forming molds (24A) are constrained to move, or independently movable from the base portion of the mold (Figs. 3-6; 24, 80), and that the counter-mold (50) are capable of moving into and out of the undercut forming molds (24A; Figures 3-6).

In regard to claims 4-5, wherein the support rings (24D-E) and the rotatable turret (36) are capable of supporting and moving the molding article from one station to another station (Figure 1; col. 3, lines 24-30).

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Takashima et al (5,762,970).

Takashima et al teach an apparatus for forming parison, comprising a base mold (34), a pair of undercut-forming mold (32), a counter-mold (33) having a piston movable into and out of the base mold (Figs. 5-6), parison receiving holders (7) with air suction units (col. 5, lines 1-14), and moving plates (3); wherein the undercut-forming mold (32) are splittable into two section (Fig. 4, 32) and engageable to the base mold (Fig. 6), wherein the mold and the counter mold are suitable for axial movement relatively with each other (Figs. 4-5).

In regard to claims 4-5, wherein the holders (7) with the air suction units are equivalent to the pickup means for picking up, holding the preform (1) and transfer them to the moving plates (3) that will deliver to the mold device while taking the formed article (4) out of the mold (5; col. 6, lines 7-26).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima et al (5,762,970) or Dickson et al (4,137,031) as applied to claims 1-5 above, and further in view of Franjo et al (6,176,699).

Takashima et al and Dickson et al disclose an apparatus for thermoforming tubular articles having holding means as described above, but fail to disclose that the holding means comprises fingers secure to arm.

Franjo discloses a parison handling device, having a handling device (10) attached to an arm (12) pair of opposed arms (22, 24) with each arm having at least a pair of gripping fingers (26, 28, 30) integrally mounted to the arms to prevent the hollow tubular plastic article from collapsing while transferring from one station to the other during the molding process.

It would have been obvious to one of ordinary skilled in the art at the time the application's invention was made to provide Takashima or Dickson handling/holding means with devices having gripping fingers as taught by Franjo in order to prevent the tubular article from collapsing while transferring during the molding process.

In regard to claims 8-12, Takashima discloses that the moving plate (3) comprising a control unit (col. 6, lines 24-26), wherein the moving plate is capable of being active and inactive and capable of moving from active position to inactive position and vice versa (col. 2, lines 65 to col. 3, line 22). It is noted that the intended uses or the operation of the device can not be used to determine the patentability of apparatus claims. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the

claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Also, one of the ordinary skilled in the art would have motivated to position the holding means as appropriate place so that the apparatus would work properly.

In regard to claim 23, it would have been obvious to one of ordinary skilled in the art to provide Takashima or Dickson with anchoring pieces as taught by Franjo (62, 64,74,76) in order to improve the anchor and the support of the thermoplastic article by the grippers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THUKHANH NGUYEN whose telephone number is (571)272-1136. The examiner can normally be reached on 7:00 AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogendra N Gupta/

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Supervisory Patent Examiner, Art Unit 1791

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